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Remarks

Status of Claims:

Claims 1-7, 21-34 stand rejected. Claims 1, 7, and 34 are amended. Claims 2 and 3 are canceled. Claims 1, 4-7, and 21-34 remain pending.

Claims 1 and 34 are amended to recite that at least a portion of the electrode is positioned proximally of the distal most portion of the tissue receiving opening, and at least a portion of the electrode is positioned distally of the proximal most portion of the tissue receiving opening. Support for the Claim amendments are found in the drawings as filed. See for example Figure 2. Claim 7 is amended to reflect the amendment to Claim 1. No new matter is added.

The claim amendments are made without prejudice to applicant filing one or more continuation applications with claims as originally filed or previously presented.

§ 102 Rejections:

Claims 1, 3-6, and 34 are rejected as anticipated by Wardle et al. US2002/0120211 (Wardle). Applicant respectfully traverses these rejections.

Under MPEP 2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim, and the elements must be arranged as required by the claim.

Claims 1 and 34 are amended to recite, among other things, at least a portion of the electrode is positioned proximally of the distal most portion of the tissue receiving opening, and at least a portion of the electrode is positioned distally of the proximal most portion of the tissue receiving opening. It is respectfully urged that Wardle does not teach or suggest the subject matter of Claims 1 or 34 or any claims dependent therefrom.

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With respect to Claims 4 and 5, it is respectfully urged that the Examiner has not responded to the Applicant's prior explanation that Wardle does not teach the subject matter of claims 4 or 5. It is respectfully urged that wires 102 and 114 of Wardle are not properly cited as electrodes in rejecting Claim 4. Further, even if the wires were somehow construed to be "electrodes", Wardle would still not teach two electrodes associated with edges of a tissue receiving opening, as recited in Claim 5.

With respect to Claim 21, it is respectfully urged that Wardle does not teach or suggest, a sleeve configured to axially receive a portion of a biopsy probe instrument, and at least one electrode disposed on an outer surface of a hollow sleeve. In particular, shaft 14 of Wardle is not properly characterized as a hollow sleeve, or a hollow sleeve configured to axially receive a portion of a biopsy probe instrument. Moreover, the cutting element 20 of Wardle is not disposed on an outer surface of shaft 14 (see for example Figure 2B and Figure 3b of Wardle, which illustrate that element 20 is not disposed on an outer surface of the shaft 14.).

Based on the foregoing, all pending claims are in a condition for allowance. Accordingly, Applicant respectfully requests reconsideration and an early notice of allowance.

Respectfully submitted,

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